

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 19 OF 2006

MR. VILAR VIEGAS, CAVELOSSIM,
MOBOR, GOA.

....Petitioner

Versus

THE STATE OF GOA THROUGH THE CHIEF
SECRETARY AND 3 ORS.,

....Respondents

Mr. Rohit Bras De Sa, Advocate for the Petitioner.

Mrs. W. Coutinho, P.P. For R. 1 To 3

Coram:- DR. S. RADHAKRISHNAN &
N. A. BRITTO, JJ.

Date:- 11th September, 2006

P.C.:

Heard learned counsel for the petitioner and learned P.P. on behalf of the respondents.

By this petition the petitioner seeks relief to the effect that the respondent no.3 should issue directions to the respondent No.4 who is the Police Inspector at Colva Police Station to register F.I.R. in terms of Section 154 of Cr.P.C..

We have perused the complaint as well as the report of the Sub-Divisional Magistrate which is dated 10th July, 2006. The learned P.P. appearing on behalf of the respondents brought to the notice of the Court a very recent decision of the Supreme Court in Minu Kumari and another v. State of Bihar and others reported in (2006) 2 SCC (Cri) 310 wherein in paragraph 16 the Hon'ble Supreme Court has made it abundantly clear that in case where complaint is not registered, a citizen always has a right to approach the learned Magistrate. The observations

of the Supreme Court in paragraph 16 read as under :-

" When the information is laid with the plice, but no action in that behalf is taken, the complainant is given power under Section 190 read with Section 200 of the Code to lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to enquire into the complaint as provided in Chapter XV of the Code. In case the Magistrate after recording evidence finds a prima facie case, instead of issuing process to the accused, he is empowered to direct the police concerned to investigate into offence under Chapter XII of the Code and to submit a report. If he finds that the complaint does not disclose any offence to take further action, he is empowered to dismiss the complaint under Section 203 of the Code. In case he finds that the complaint/evidence recorded prima facie discloses an offence, he is empowered to take cognizance of the offence and would issue process to the accused. These aspects have been highlighted by this Court in All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India. It was specifically observed that a writ petition in such cases is not to be entertained."

We are not inclined to exercise our writ jurisdiction in the above case. Hence the Writ Petition stands dismissed.

DR. S. RADHAKRISHNAN, J.

N. A. BRITTO, J.

sl.